

MV



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,250	02/24/2005	Giorgio Armani	23227	6778

7590 10/04/2005

The Firm of Karl F Ross
Box 900
5676 Riverdale Avenue
Riverdale Bronx, NY 10471

EXAMINER

REESE, DAVID C

ART UNIT PAPER NUMBER

3677

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Ku

Office Action Summary

Application No.

10/526,250

Applicant(s)

ARMANI, GIORGIO

Examiner

David C. Reese

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

- [1] Claims 1-9 are pending.

Specification

- [2] The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.
- [3] The disclosure is objected to because of the following informalities: Proper headings are missing from said disclosure; please see below.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.

Art Unit: 3677

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Appropriate correction is required.

Claim Objections

[4] Claims 3-5 and 7-9 recite the following limitations in the instant claims or dependent ones therefrom: "the distance, said holes, the disc, the smallest diameter" (all from claim 2); "said holes" (claim 4); "said holes" (Claim 7); "said precious and/or ornamental elements" (Claim 8); "the configuration" (Claim 9). There is insufficient antecedent basis for these limitations in the claim.

[5] Claims 1-9 objected to because of the following informalities: "characterised," should be "characterized". Appropriate correction is required.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

[6] The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 3677

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

[7] Claims 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 8, the use of the word, "it" renders the claim indefinite, as it is unsure as to what exactly "it" is referring to. Also, in claim 9, "a stylized eagle, in section," is indefinite, as it does not give any structural detail to such a configuration. That is, what structural features does such a "stylized eagle" encompass.

Claim Rejections - 35 USC § 103

[8] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[9] Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenzie US-4,912,814, in view of Caluori US-6,109,490.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claim 1, McKenzie teaches of a jewellery structure (Fig. 1) with high flexibility of use, characterized in that it comprises a member (10) slidably associated with two cords (44A, 44B) having, at one end, stop elements for said member (10).

The difference between the claim and McKenzie is the claim recites: at the opposite end, connection elements for the removable joining together of said cords. Caluori discloses a structure similar to that of McKenzie. In addition, Caluori further teaches of a brass clip (42) that fastens two ends of the cord (40,44) together. It would have been obvious to one of ordinary skill in the art, having the disclosures of McKenzie and Caluori before him at the time the invention was made, to modify the other end of the cord (40) of McKenzie to include a further embodiment that includes a fastening means, as in Caluori. One would have been motivated to make such a combination because one would want an additional way to attach said cord around a retaining member, as shown by Caluori. In addition, such the act of putting a fastening member to attach two ends of cords together instead of having just a continuous cord is extremely old and well known in the art of jewelry, especially with regard to necklaces and bracelets. Therefore, in this case, it would have also been an obvious matter of art recognized equivalence to include such a fastening member, as Applicant has not disclosed that it solves any stated problem of the prior art or is for any particular purpose that is not already known in the prior art. It appears that the invention would perform equally well as the invention disclosed by McKenzie.

Re: Claim 2, McKenzie shows characterized in that said member (10) is formed from three discs with decreasing diameter (Note that those of ordinary skill in the art would appreciate that a modification such as a mere change in shape of a prior art device is a design consideration

Art Unit: 3677

within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) associated together coaxially and from two holes (inside 18) passing through said discs.

Re: Claim 3, McKenzie shows characterized in that the distance between said holes (inside 18) on the disc with the greatest diameter (top of 18) is greater than the distance between said holes on the disc with the smallest diameter (bottom of 18) so that said holes slightly converge with each other (Figs. 1-3).

Re: Claim 4, McKenzie shows characterized in that said cords (44a, 44b) have, along their length, at least one zone suitable for generating friction inside said holes, said friction being sufficient to hold said member (10) in said zone (Fig. 4).

Re: Claim 5, McKenzie shows characterized in that said cords (44a, 44b) in said at least one zone have a diameter equal to or slightly greater than that of said holes (inside of 8).

Re: Claim 6, McKenzie shows characterized in that said member (10), when positioned against said stop elements (bottom of Fig. 1), [acts as a support for one or more precious and/or ornamental elements]. Example of intended use, as the stop elements only need the capacity to be able to support one or more precious and/or ornamental elements, and in this case, the stop elements do indeed have the ability to do such. Note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Re: Claim 7, McKenzie shows characterized in that said stop elements (bottom of Fig. 1) comprise two balls with a diameter greater than that of said holes (inside 18).

Art Unit: 3677

Re: Claim 8, characterized in that it (bottom of Fig. 1) comprises stops for holding said slidable member (10) and/or said precious and/or ornamental elements.

Conclusion

[10] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited further to show the state of the art with respect to this particular type of jewelry item; as well as their extreme relevance to the current application as many read extensively onto the claimed invention: please see submitted notice of reference cited.

[11] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. **Please also note the change in the fax phone number to (571) 273-8300 for the organization where this application or proceeding is assigned.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,
David Reese
Assistant Examiner
Art Unit 3677

DCR


ROBERT J. SANDY
PRIMARY EXAMINER